

LABOR SERVICES DIVISION[875]

Notice of Intended Action

**Proposing rule making related to occupational health
and safety and providing an opportunity for public comment**

The Labor Commissioner hereby proposes to amend Chapter 3, “Posting, Inspections, Citations and Proposed Penalties,” and Chapter 4, “Recording and Reporting Occupational Injuries and Illnesses,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 88.5 and 88.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 88.

Purpose and Summary

Iowa’s occupational safety and health program is required to be at least as effective as the federal occupational safety and health program. The proposed amendments would align Iowa’s occupational safety and health program with the federal program. Item 1 aligns Iowa’s penalties for occupational safety and health citations with the corresponding federal penalties by making an annual cost-of-living adjustment. Item 2 adopts by reference a recent change rescinding a federal requirement for larger employers to make electronic reports of injuries and illnesses.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on March 20, 2019. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50319-0209
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

March 20, 2019
9 a.m.

150 Des Moines St.
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commissioner and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after ~~June 30, 2018~~ May 29, 2019, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than ~~\$9,239~~ \$9,472 and shall not exceed ~~\$129,336~~ \$132,598.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~\$129,336~~ \$132,598.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~\$12,934~~ \$13,260.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~\$12,934~~ \$13,260.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~\$12,934~~ \$13,260 per day.

ITEM 2. Adopt the following **new** paragraph **4.3(1)“h”**:

h. 84 Fed. Reg. 405 (January 25, 2019)